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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/635,905      | 08/07/2003  | Herbert Wolf         | WOLF13              | 7837             |

1444 7590 09/24/2004

BROWDY AND NEIMARK, P.L.L.C.  
624 NINTH STREET, NW  
SUITE 300  
WASHINGTON, DC 20001-5303

EXAMINER

BUTLER, DOUGLAS C

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3683

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/635,905

Applicant(s)

WOLF ET AL.

Examiner

Douglas C. Butler

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The finality of the office action of 06/01/2004 is withdrawn based upon instructions given to the examiner by the SPE.
2. Applicants are required to complete the substance of the interview that resulted in the above decision being made between applicants and the SPE since MPEP 713.04 requires such a statement.
3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
4. All prior art made of record has been considered.
5. Claim 8, line 22 a comma should be inserted after "adjustable".
6. Claim 8, line 23 --abutment - - should be inserted between "first" and "and".
7. Claim 8, line 24 - - end - - should be inserted between " "first" and "and".
8. Claim 8, line 25 - -holding bush -- should be inserted between "first" and "and".
9. Claim 8, line 30 "bush" should be changed to - - bushes --.
10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3683

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Avner (3211444), of record.

Figure 2 of Avner discloses an extension spring 36, piston rod 48, piston 49 and actuating tappet 35.

13. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Avner(3211444) in view of either one of the secondary references to Jacobsen(3041060) or Gillingham(4744444)

The principal reference to Avner discloses the invention substantially as claimed. However, the principal reference to Avner does not disclose the feature of claim 8 directed to the use of threaded bushes for adjustment purposes.

Each one of the secondary references to teaches using threaded bushes at opposite ends of a spring for adjustment.

It would have been obvious at the time the invention was made to one having ordinary skill in the art to which the invention pertains to modify the principal reference to Avner to adjust the extension spring thereof by the use of opposite threaded bushes as taught by each of the secondary references to adjust the spring to achieve different

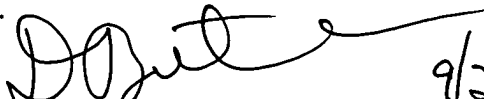
spring and dampening characteristics to accommodate different applications of the spring. Re the adjustability feature, see MPEP 2144.04 It has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954) .

14. Each one of the references cited on attached Form PTO-892 to Yamada et al(4776440), Kaneko(4700611), Rumsey(3365188), Sorgatz et al(4004662) disclose end dampers.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas C. Butler whose telephone number is 703-308-2575. The examiner can normally be reached on m-f 5:30 am to 2pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Douglas C. Butler  
Primary Examiner  
Art Unit 3683

9/22/04